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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,826

03/10/2004

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944-004.045-1

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08/26/2009

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EXAMINER

TRAN, CONGVAN

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

08/26/2009

PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PEETER PRUUDEN
and MIKKO KOLEHMAINEN

Appeal 2009-003828
Application 10/798,826
Technology Center 2600

Decided: August 26, 2009

Before ROBERT E. NAPPI, THOMAS S. HAHN, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-21. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

INVENTION

Appellants' claimed invention is directed to a mobility profile which allows applying mobility specific functionalities in the server side in a similar manner that has been provided with other managed containers (Spec. 8:15-18). The mobility specific functions include either accounting charging, subscriber management, authentication, identity management, authorization policy management, device profile management, session and transaction management, service registry, workflow management, or some combination thereof (Spec. 8:18-24; Fig. 2, elements 58a-h).

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. A method for identifying, compiling, deploying, managing, or de-deploying, mobility components in a managed application server platform of a network, wherein the method comprises:
 instantiating a mobility profile in an application server execution environment for making common mobile functionality available to mobility specific components.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Gustafsson

US 2004/0218605 A1 Nov. 4, 2004

The following rejection is before us for review:

The Examiner rejected claims 1-21 under 35 U.S.C. § 102(e) as anticipated by Gustafsson.

Appellants argue the art rejection of claims 1 and 10 as a group (Br. 7-11).¹ Although Appellants nominally argue independent claims 2-9 and 11-21 separately (Br. 11-13), these arguments merely reiterate the same arguments presented for claims 1 and 10. Accordingly, we group these claims with claims 1 and 10 and select claim 1 as representative. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ANTICIPATION

Appellants argue that Gustafsson's mobility server 265 and/or the access wizard 261, in relation to Figure 2, do not instantiate a mobility profile in an application server execution environment for making common mobile functionality available to mobility specific components, as claimed in claims 1 and 10 (Br. 8).

Appellants further argue that Gustafsson's application server 366, the mobility server 365 and/or the access wizard 361 also do not instantiate a mobility profile in an application server execution environment for making

¹ Only arguments made by Appellants have been considered in this decision. Arguments which Appellants could have made but did not make in the Brief have not been considered and are deemed waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2004).

common mobile functionality available to mobility specific components, as recited in claims 1 and 10 (Br. 9).

We note that while Appellants recite different features of Gustafsson and argue that those do not teach the claim limitations, they have not explained why they do not (Br. 8-9). Nonetheless, we do address Appellants' arguments as understood.

The Examiner finds that Gustafsson teaches an Always Best Connected (ABC) service network that provides service related to mobility, security, authentication, and access handling (Gustafsson, ¶¶ [0051]-[0052]; Figs. 2, 3, and related Specification description; elements 265, 365, 366; Ans. 3, 5). The Examiner concludes that this teaching reads on the limitation of "instantiating a mobility profile in an application server" (Ans. 5 (emphasis omitted)). The Examiner further finds that the limitations of "accounting charging, . . . authentication, . . . [and] authorization policy management" as recited in claim 3 are met by Gustafsson's paragraph [0052] reciting that the ABC network 260 further comprises a security server 264, which handles security-related matters like authentication and authorization and can be implemented as an AAA (authentication, authorization, accounting) server (Gustafsson, ¶¶ [0051]-[0052]; Fig. 3, and related Specification description; elements 362, 364; Ans. 4, 8).

The issue before us, then, is as follows:

Have Appellants shown that the Examiner erred by determining that Gustafsson teaches "instantiating a mobility profile in an application server execution environment for making common mobile functionality available

to mobility specific components” as recited in claim 1 or a similar limitation of claim 10?

FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence:

1. Appellants describe an application node 16 and the managed application server platform (J2EE container) 18 (Fig. 1), which includes a mobility profile module 30 and mobility specific components 32 (Fig. 1) such as presence, location, and MMS (i.e., instant messaging) (Fig. 2, elements 54a-54c).
2. Appellants further describe the term “instantiation” as “the process of substituting specific data, instructions, or both into a generic program unit to make it usable in a computer program” (Spec. 11:12-18).
3. Appellants disclose that the instantiation of the mobility profile allows the application of mobility specific functionalities in the server side, and such functionalities include accounting charging, authentication, and authorization (Spec. 8:15-24; Fig. 2, elements 58a-58h).
4. Gustafsson teaches that terminals 110 can use multiple access networks (ANs) 120 to reach IP-based network services 130, which are offered by content providers 150 (with associated data sources 151) over the internet 140 (§ [0030]).
5. Furthermore, Gustafsson teaches that network services include *multimedia messaging MMS* (§ [0030]).

6. Gustafsson also teaches that the access wizard 213 of the terminal 210 signals information to the access wizard unit 261 about currently available access networks, current *location*, route, and/or velocity of the terminal (§ [0042]).
7. Gustafsson teaches that an access wizard 261, based on the collected information through the profile server 262 and the access wizard 213, selects an access network (Fig. 1, element 210) that is considered to be the best for terminal 210 (§ [0042]).
8. Gustafsson also teaches a security server 264 or 364, which can be implemented as an authentication, authorization, and accounting server (Figs. 2, 3; § [0052]).
9. Gustafsson further teaches that, as a user/terminal changes access network, the user/terminal can be authenticated and authorized through the security server 264 or 364 and applications sessions are maintained during the handoff through mobility server 265 or 365, which communicates with mobility clients 216 or 316 in the multi-access terminals 110 (Figs. 1-3; § [0052]).
10. Furthermore, Gustafsson teaches that, in addition to the above features, in relation to Figure 3, an application server 366 at the network 360 collects/receives database information from the profile server 362 (§ [0054]; Fig. 3).
11. Gustafsson teaches that the collected information from profile server 362 is used to adapt the application 317 to suit the particular terminal/user (§ [0054]).

PRINCIPLES OF LAW

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. The scope of the claims in patent applications are not determined solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

ANALYSIS

Appellants describe an application node 16 and the managed application server platform (J2EE container) 18 (Fig. 1), which includes a mobility profile module 30 and mobility specific components 32 (Fig. 1) such as presence, location, and MMS (i.e., instant messaging) (FF 1; Br. 4). Appellants further describe the term “instantiation” as “the process of substituting specific data, instructions, or both into a generic program unit to make it usable in a computer program” (Br. 5; FF 2). Appellants disclose that the instantiation of the mobility profile allows the application of mobility specific functionalities in the server side, and such functionalities

include accounting charging, authentication, and authorization (Br. 5; FF 3). In other words, Appellants' claim limitation requires instantiating a mobility profile in an application server execution environment (i.e., allowing the application of mobility specific functionalities at the server side) for making common mobile functionality (i.e., accounting, authentication, and authorization) available to mobility specific components (i.e., presence, location, and MMS).

Gustafsson teaches that terminals 110 can use multiple access networks (ANs) 120 to reach IP-based network services 130, which are offered by content providers 150 (with associated data sources 151) over the internet 140 (FF 4). Furthermore, Gustafsson teaches that network services include *multimedia messaging MMS* (FF 5). Thus, Gustafsson teaches the mobility specific component of MMS like Appellants' MMS (Appellants' Fig. 2, element 54c).

Gustafsson also teaches that the access wizard 213 of the terminal 210 signals information to the access wizard unit 261 about currently available access networks, current *location*, route, and/or velocity of the terminal (FF 6). The access wizard 261, based on the collected information through the profile server 262 and the access wizard 213, selects an access network (Fig. 1, element 210) that is considered to be the best for terminal 210 (FF 7). Accordingly, Gustafsson also teaches the mobility specific component of location like Appellants' location (Appellants' Fig. 2, element 54b).

Gustafsson also teaches a security server 264 or 364, which can be implemented as an authentication, authorization, and accounting server (FF

8). Gustafsson further teaches that as a user/terminal changes access network, the user/terminal can be authenticated and authorized through the security server 264 or 364 and applications sessions are maintained during the handoff through mobility server 265 or 365, which communicates with mobility clients 216 or 316 in the multi-access terminals (FF 9). Thus, Gustafsson teaches common mobile functionalities such as accounting, authentication, and authorization through the security server 264 or 364 and mobility server 265 or 365 (FF 8, 9).

Furthermore, Gustafsson teaches that in addition to the above features, in relation to Figure 3, an application server 366 at the network 360 collects/receives database information from the profile server 362 (FF 10). Gustafsson teaches that the collected information from profile server 362 is used to adapt the application 317 to suit the particular terminal/user (i.e., instantiation) (FF 11). Thus, an application such as MMS, which would be provided by ABC server 360, could be adapted for the particular terminal/user.

Thus, based on the above, similar to Appellants' disclosure (FF 1-3), Gustafsson teaches instantiating a mobility profile (i.e., mobility server 265 or 365) in an application server execution environment (i.e., ABC service network 260 or 360) (i.e., allowing the application of mobility specific functionalities at the server side 260 or 360) for making common mobile functionality (i.e., accounting, authentication, and authorization through the security server 264 or 364 and mobility server 265 or 365) available to mobility specific components (i.e., location determined by access wizard

261, access wizard 213 and profile server 262; and providing a service such as MMS provided by service network 260 or 360, which could be adapted for the particular terminal) (FF 4-11).

Accordingly, the Examiner appropriately determined the scope of the claim under the broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *See Am. Acad. of Sci. Tech Ctr.*, 367 F.3d at 1364.

Thus, we are not persuaded by Appellants' argument that Gustafsson does not instantiate a mobility profile in an application server execution environment for making common mobile functionality available to mobility specific components, as recited in claims 1 and 10 (Br. 9).

For the foregoing reasons, Appellants have not persuaded us that the Examiner erred in rejecting claims 1 and 10. For similar reasons, dependent claims 2-9 and 11-21 fall with claims 1 and 10. Accordingly, we sustain the Examiner's rejection of claims 1-21.

CONCLUSION

Under 35 U.S.C. § 102(e), Appellants have not shown that the Examiner erred by determining that Gustafsson teaches "instantiating a mobility profile in an application server execution environment for making common mobile functionality available to mobility specific components." Accordingly, we sustain the Examiner's rejection of claims 1-21.

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ORDER

The decision of the Examiner to reject claims 1-21 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

babc

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